



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON D.C. 20548

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In Reply

Refer To: B-203087

July 7, 1981

The Honorable Charles McC. Mathias, Jr.
Chairman, Committee on Rules and
Administration
United States Senate

Dear Mr. Chairman:

This responds to your letter attaching an inquiry of the Senate Sergeant at Arms about (1) whether there is sufficient authority to invest excess funds in the Senate Recording and Photographic Studios in short term certificates of deposit and (2) whether the earnings from the investments could be used to pay salaries of one or more Studios employees. For the reasons given below, we agree with the idea's originator, the Director of the Studios, that legislation is required to implement this proposal.

The Senate Recording Studio, renamed the Senate Recording and Photographic Studios by Pub. L. No. 96-304, § 108(a), 94 Stat. 890, is authorized to assist Senate members and committees in making disk, film and tape recordings and in performing other functions and duties in connection with the making of recordings as may be necessary. 2 U.S.C. § 123(b). A revolving fund was established in the Treasury within the contingent fund of the Senate for administering the duties of the Studios and originally was funded from assets in the Joint Senate and House Recording Facility Revolving Fund. *Id.* §§ 123b(g), 123b(i)(5). The revolving fund is replenished from moneys received by the Studios for disk, film and tape recordings and from any other source. Moneys in the fund are available "for the care, maintenance, operation, and other expenses" of the Studios. *Id.* § 123b(h). Salaries of Studios employees are paid from funds appropriated for Senate "Salaries, Officers and Employees" in the various legislative branch appropriation acts.

The material accompanying your letter shows that the amount of money in the revolving fund varies from \$500,000 to \$1,500,000. At the end of January 1981 the fund contained more than \$600,000. The Director of the Studios has proposed that at least \$100,000 be kept in the fund, that the remainder be invested in short term certificates of deposit and that interest on the invested principal be used to pay salaries of two employees. He also suggests that the laws controlling the use of the fund would have to be amended to implement the proposal.

[Inquiry Regarding Senate Recording and Photographic Studios]

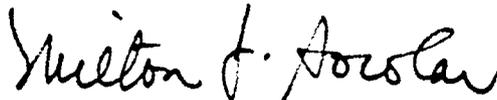
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We agree that the proposal cannot be implemented without amending legislation. Studios receipts are public funds. All public moneys must be deposited into the Treasury of the United States (or where applicable with designated depositaries). See 31 U.S.C. §§ 482, 492, 495, 521 (1976). Moreover, we have said that revolving funds are appropriations, B-193573, December 19, 1979, and, accordingly, the legal principles applicable to appropriations would apply to revolving funds. See 35 Comp. Gen. 436, 438 (1956).

The statute establishing the revolving fund provides only that it "shall be available * * * for the care, maintenance, operation, and other expenses of the [Senate Recording and Photographic Studios]". 2 U.S.C. § 123b(h), as amended by Pub. L. No. 96-304, § 108(a), 94 Stat. 890. We think it clear from the quoted language that investment of revolving funds was not a specified purpose, and thus such investment would contravene 31 U.S.C. § 628 which requires that appropriated funds must be applied "solely to the objects for which they are respectively made." This conclusion is consistent with the legislative history of section 123b(h) which does not in any way suggest that investment of revolving fund moneys was intended.

In answer to your second question, absent authorizing legislation, investment income could not be used to pay salaries of Studios employees since the fund itself is not available for that purpose. The fund is available only for the "care, maintenance, operation and other expenses" of the Studios. 2 U.S.C. § 123b(h). Salaries for Studios employees have been and are provided from appropriations for Senate "Salaries, Officers and Employees" in the various legislative branch appropriation acts. That appropriation is exclusively available for payment of Studios employee salaries. Since income from investments of the fund would accrue to the fund, this income, like the fund itself, could not be used to pay those salaries. Thus, if desired, legislation authorizing the investment of fund income could also provide for payment of salaries for one or more Studios employees from revolving fund monies. To avoid any confusion, if enacted, such legislation might state that the status and benefits accorded Studios employees will be the same as those provided when they were paid from funds appropriated for Senate "Salaries, Officers and Employees."

Sincerely yours,



Acting Comptroller General
of the United States

July 7, 1981

Digest

Absent amending legislation, proposal to invest Senate Recording and Photographic Studios moneys and use interest on investments to pay Studios employees cannot be implemented. Neither statute establishing the revolving fund nor its legislative history provides authority for investment or payment of salaries. Such actions would contravene law providing that appropriations be used only for particular purposes intended, 31 U.S.C. § 628.